

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY)
AND ETHICS IN WASHINGTON,)
1101 K Street, N.W., Suite 201)
Washington, D.C. 20005)
Plaintiff,)
v.)
U.S. DEPARTMENT OF HOMELAND)
SECURITY,)
245 Murray Lane, S.W.)
Washington, D.C. 20528, and)
U.S. DEPARTMENT OF STATE)
2201 C Street, N.W.)
Washington, D.C. 20520,)
Defendants.)
Civil Action No. _____

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, for injunctive, declaratory, and other appropriate relief. Plaintiff Citizens for Responsibility and Ethics in Washington (“CREW”) challenges the failure of the U.S. Department of Homeland Security (“DHS”) and the U.S. Department of State (“State”) to release records in response to CREW’s FOIA requests for documents relating to the consideration of Trump National Doral Miami as a venue for the Group of Seven Nations or G-7 summit to be hosted by the United States in 2020.

2. This case seeks declaratory relief that DHS and State are in violation of the FOIA, 5 U.S.C. §§ 552(a)(3)(a) and (6)(E)(i), and implementing regulations by refusing to provide

CREW all responsive records, and injunctive relief ordering defendants DHS and State to process and release to CREW immediately the requested records in their entirety.

Jurisdiction and Venue

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B) and 552(a)(6)(C)(i). The Court also has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201(a), and 2202. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

Parties

4. Plaintiff CREW is a non-profit, non-partisan organization organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the rights of citizens to be informed about the activities of government officials and agencies, and to ensuring the integrity of government officials and agencies. CREW seeks to empower citizens to have an influential voice in government decisions and in the government decision-making process through the dissemination of information about public officials and their actions. To advance its mission, CREW uses a combination of research, litigation, and advocacy. As part of its research, CREW uses government records made available to it under the FOIA.

5. Defendant DHS is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. Defendant DHS and its component the Secret Service have possession and control of the requested records and are responsible for fulfilling plaintiff's FOIA request to DHS.

6. Defendant State is an agency within the meaning of 5 U.S.C. § 552(f) and 5 U.S.C. § 701. Defendant has possession and control of the requested records and is responsible for fulfilling plaintiff's FOIA requests to State.

Statutory and Regulatory Background

7. The FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.

8. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination of which of the requested records it will release, which it will withhold and why, and the requester's right to appeal the determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).

9. In "unusual circumstances" an agency may extend the time to respond to a request by no more than 10 working days provided that the agency gives the requester written notice setting forth the unusual circumstances and the date on which the agency expects to make a determination. 5 U.S.C. § 552(a)(6)(B)(i). The FOIA defines "unusual circumstances" as including the need to search for and collect responsive records from offices other than the office processing the request; the need to search for, collect, and examine a "voluminous amount of separate and distinct records"; and the need to consult with another agency. 5 U.S.C. § 552(a)(6)(B)(iii)(I)-(III).

Factual Background

10. On July 22, 2019, *Axios* reported that the Trump administration was "down to its final few choices" for the 2020 G-7 summit and that, "after completing site surveys of possible locations . . . Trump National Doral, President Trump's 800-acre golf club in Miami, is among the finalists." Jonathan Swan, Scoop: Trump resort in mix to host G7, *Axios*, July 22, 2019, <https://bit.ly/2STtKzL>. This reporting generated significant public questioning about the ethical propriety of the President using his own property for the G-7 summit. *See, e.g.*, Alexandra Hutzler, Donald Trump Reportedly Considering Hosting G7 Summit at His Own Golf Resort

Blasted as ‘Extremely Problematic’, Newsweek, July 22, 2019, <https://bit.ly/2YjGxAu>; Taylor Dolven and Sarah Blaskey, Business is lagging at Trump Doral. Could a summit with world leaders turn it around?, Miami Herald, July 31, 2019, <https://hrl.us/2MveBDw>; Chris Jansing, Donald Trump’s Florida property in running to host G7 summit, MSNBC, July 22, 2019, <https://on.msnbc.com/2Mt8cZy>.

11. One month later, President Trump suggested to reporters that government offices charged with evaluating possible locations for the 2020 G-7 summit supported hosting it at the Trump National Doral resort. Trump shares his justification for holding next G7 at Trump National Doral Miami, MSNBC, Aug. 26, 2019, <https://bit.ly/2o1J2ra>. When pressed on the ethical questions of using one of his properties to host foreign dignitaries, President Trump responded:

When my people came back – they took tours, they went to different places. I won’t mention places but you’ll have a list because they’re going to give a presentation on it fairly soon. They went to places all over the country. And they came back and they said, “This is where we would like to be.” Now we had military people doing it. We had Secret Service people doing it. We had people that really understand what it’s about. It’s not about me. It’s about getting the right location.

Id.

12. That same day, the *New York Times* reported that the Secret Service had had communications with city officials about having the event at the Doral location. Patricia Mazzei, Michael D. Shear, and Eric Lipton, Trump Has Just the Place for the Next G7 Meeting: His Own Golf Resort, New York Times, Aug. 26, 2019, <https://nyti.ms/2BtRyID>. In spite of this reporting and claims by the President about an extensive vetting process, in response to CREW’s request under the Florida Public Records Law to the Doral Police Department and the Mayor’s Office,

the Doral Government Center produced no records that showed that the federal government had communicated with the city about the Doral location as the site for the 2020 G-7 summit.

13. One day later the *Washington Post* reported that according to a State Department official multiple teams were sent to review locations for the G-7 summit. David A. Fahrenthold, Anne Gearan, and Carol Morello, Trump's promotion of Doral for next G-7 summit catches local officials by surprise, *Washington Post*, Aug. 27, 2019, <https://wapo.st/2ZjcMRP>.

14. The presentation that President Trump promised along with a list of places under consideration for the G-7 summit never materialized. Instead, on October 17, 2019, Acting White House Chief of Staff Mick Mulvaney announced that the contract for the 2020 G-7 summit had been awarded to the president's Trump Doral golf resort. Mr. Mulvaney claimed they had visited 10 possible sites, but chose the Doral site because it "was far and away the best physical facility for this meeting." Toluse Olorunnipa, David A. Fahrenthold, and Jonathan O'Connell, Trump has awarded next year's G-7 summit of world leaders to his Miami-area resort, the White House said, *Washington Post*, Oct. 17, 2019, <https://wapo.st/2IYG9ym>.

CREW's FOIA Request to DHS

15. On August 28, 2019, CREW sent a FOIA request by email to the U.S. Secret Service seeking all communications between January 1, 2019 and the present that relate to or support President Trump's assertion that the Secret Service preferred the Trump National Doral resort as a site for the G-7 summit in 2020.

16. CREW sought a waiver of fees associated with processing its request. CREW explained that given previous evidence that President Trump has used his office to promote his business interests, the public has a compelling interest in learning about the Secret Service's assessment of his resort as a possible venue. CREW noted that the Doral resort neighbors one of

the busiest intersections in Doral and is located in southern Florida, which can be uncomfortably hot and prone to storms during the summer – all facts that would weigh against that location for the G-7 summit.

17. By letter dated August 28, 2019, the Secret Service acknowledged receipt of CREW's FOIA request on August 28, 2019. The Secret Service invoked FOIA's 10-day extension to respond based on the claimed need to conduct a "thorough and wide-ranging search," but did not provide a date by which the agency anticipated a response.

18. To date, CREW has received no further response from the Secret Service.

CREW's FOIA Requests to the State Department

19. On August 1, 2019, CREW sent a FOIA request by email to the State Department seeking copies of all records in the Office of the Chief of Protocol or the Office of Major Events and Conferences that were created, received, sent, or obtained in calendar year 2018 or 2019 relating to the consideration of Trump National Doral Miami as a possible venue for the G-7 summit in 2020.

20. CREW sought a waiver of fees associated with processing its request. CREW explained that the requested records are likely to contribute to greater public understanding of the integrity of the State Department's performance of statutory and regulatory procurement responsibilities as well as the use of appropriated funds. CREW explained further that the revelation that the President's own property was a finalist in the site selection process had created a compelling need for the release of records that will enable the public to evaluate the possibility of corruption or undue command influence with regard to a governmental activity that the public has a right to expect will be carried out objectively, free of undue influence by the President. CREW added that the requested records will show whether departmental officials

considered the personal financial interests of the President, the potential for corruption, or the appearance of impropriety while evaluating the suitability of Trump National Doral.

21. By letter dated August 21, 2019, the State Department acknowledged receipt of CREW's request on August 1, 2019. The State Department claimed that the records CREW seeks require a search in offices separate from the office processing the request and therefore fall within the "unusual circumstances" provision of the FOIA. The State Department therefore claimed to need more than 10 additional days, but did not provide a date by which the agency anticipated a response. The State Department also stated without explanation that it had placed CREW's request in the complex track.

22. To date, CREW has received no further response from the State Department.

23. On August 1, 2019, CREW sent a second FOIA request by email to the State Department seeking copies of all records in the Office of Acquisition Management or the Bureau of Diplomatic Security that were created, received, sent, or obtained in calendar year 2018 or 2019 relating to the consideration of Trump National Doral Miami as a possible venue for the G-7 summit in 2020.

24. CREW sought a waiver of fees associated with processing its request. CREW explained that the requested records are likely to contribute to greater public understanding of the integrity of the State Department's performance of statutory and regulatory procurement responsibilities as well as the use of appropriated funds. CREW explained further that the revelation that the President's own property was a finalist in the site selection process had created a compelling need for the release of records that will enable the public to evaluate the possibility of corruption or undue command influence with regard to a governmental activity that the public has a right to expect will be carried out objectively, free of undue influence by the

President. CREW added that the requested records will show whether departmental officials considered the personal financial interests of the President, the potential for corruption, or the appearance of impropriety while evaluating the suitability of Trump National Doral.

25. By letter dated August 21, 2019, the State Department acknowledged receipt of CREW's request on August 1, 2019. The State Department claimed that the records CREW seeks require a search in offices separate from the office processing the request and therefore fall within the "unusual circumstances" provision of the FOIA. The State Department therefore claimed to need more than 10 additional days, but did not provide a date by which the agency anticipated a response. The State Department also stated without explanation that it had placed CREW's request in the complex track.

26. To date, CREW has received no further response from the State Department.

27. On August 28, 2019, CREW sent a third FOIA request by email to the State Department seeking copies of all communications sent or received by the Bureau of Diplomatic Security between January 1, 2019 and the present that relate to or support President Trump's assertion that government offices that evaluated different potential sites for the 2020 G-7 summit preferred the Trump National Doral.

28. CREW sought a waiver of fees associated with processing its request. CREW explained that given the previous evidence that President Trump has used his office to promote his business interests, the public has a compelling interest in learning about the State Department's assessment of his resort as a possible venue. CREW noted that the Doral resort neighbors one of the busiest intersections in Doral and is located in southern Florida, which can be uncomfortably hot and prone to storms during the summer – all facts that would weigh against that location for the G-7 summit.

29. By letter dated August 30, 2019, the State Department acknowledged receipt of CREW's request on August 28, 2019. The State Department claimed that the records CREW seeks require a search in offices separate from the office processing the request and therefore fall within the "unusual circumstances" provision of the FOIA. The State Department therefore claimed to need more than 10 additional days, but did not provide a date by which the agency anticipated a response. The State Department also stated without explanation that it had placed CREW's request in the complex track.

30. To date, CREW has received no further response from the State Department.

PLAINTIFF'S CLAIMS FOR RELIEF

CLAIM ONE **(DHS's Wrongful Withholding of Agency Records)**

31. Plaintiff repeats and re-alleges paragraphs 1-30 set forth above.
32. Plaintiff properly asked for records within the custody and control of DHS.
33. Defendant DHS wrongfully withheld from disclosure all non-exempt records responsive to plaintiff's FOIA request.
34. By failing to release the records plaintiff requested, defendant DHS has violated the FOIA.
35. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the immediate processing and disclosure of non-exempt requested records.

CLAIM TWO **(Department of State's Wrongful Withholding of Agency Records)**

36. Plaintiff repeats and re-alleges paragraphs 1-35 set forth above.
37. Plaintiff properly asked for records within the custody and control of the State Department.
38. Defendant Department of State wrongfully withheld from disclosure all non-exempt records responsive to plaintiff's three FOIA requests.

39. By failing to release the records plaintiff requested, defendant Department of State has violated the FOIA.

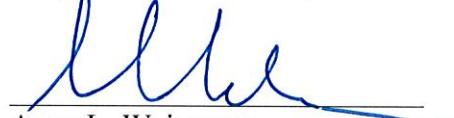
40. Plaintiff therefore is entitled to injunctive and declaratory relief with respect to the immediate processing and disclosure of non-exempt requested records.

Requested Relief

WHEREFORE, plaintiff respectfully requests that this Court:

- (1) Order defendants Department of Homeland Security and Department of State to immediately and fully process plaintiff's FOIA requests and disclose all non-exempt documents immediately to plaintiff;
- (2) Issue a declaration that plaintiff is entitled to immediate processing and disclosure of the requested records;
- (3) Provide for expeditious proceedings in this action;
- (4) Retain jurisdiction of this action to ensure no agency records are wrongfully withheld;
- (5) Award plaintiff its costs and reasonable attorneys' fees in this action; and
- (6) Grant such other relief as the Court may deem just and proper.

Respectfully submitted,


Anne L. Weismann
(D.C. Bar No. 298190)
Adam J. Rappaport
(D.C. Bar No. 479866)
Citizens for Responsibility and Ethics
in Washington
1101 K Street, N.W., Suite 201
Washington, D.C. 20005
Phone: (202) 408-5565
Facsimile: (202) 588-5020

aweismann@citizensforethics.org

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Attorneys for Plaintiff